

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

In the Matter of ISZEL COBBS, Minor.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

FRANK COBBS, SR.,

Respondent-Appellant,

and

DEBRA WALKER, a/k/a DEBORAH WALKER,

Respondent.

---

In the Matter of ISZEL COBBS, Minor.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DEBRA WALKER, a/k/a DEBORAH WALKER,

Respondent-Appellant,

and

FRANK COBBS, SR.,

Respondent.

---

UNPUBLISHED

November 27, 2007

No. 276983

Kent Circuit Court

Family Division

LC No. 05-050758-NA

No. 276985

Kent Circuit Court

Family Division

LC No. 05-050758-NA

Before: Donofrio, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j), and additionally terminating the rights of respondent father under MCL 712A.19b(3)(c)(ii) and those of respondent mother under MCL 712A.19b(3)(l). Because clear and convincing evidence established at least one of the statutory grounds for termination with respect to each respondent, and termination of respondents' parental rights was not clearly contrary to the best interest of the child, we affirm.

Petitioner removed the minor child from respondent mother's care immediately after his birth, due to her history of prior terminations of parental rights as well as two positive screens for cocaine during her pregnancy with the minor child. Petitioner provided both respondents with treatment plans,<sup>1</sup> and 13 months after the initial petition, petitioner returned the child in April 2006 to the care of respondent mother. Respondent father began to live in the home shortly thereafter and continued to do so at the time of the termination trial. In early June 2006, respondent mother relapsed into alcohol use. In response, petitioner again removed the child and filed a supplemental petition seeking termination of the parental rights of respondent mother and respondent father.

Both respondents challenge the sufficiency of the evidence for the termination of their parental rights. Because respondent mother's parental rights to two other children were previously terminated as a result of proceedings brought under MCL 712A.2(b), the statutory ground for termination found in MCL 712A.19b(3)(l) was unquestionably established, and it is unnecessary to address her challenges to the sufficiency of the evidence to establish other statutory grounds. Once a ground for termination is established, the court must order termination of parental rights unless there is clear evidence, on the whole record, that termination is not in the child's best interests. *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000).

We nevertheless conclude that the trial court did not clearly err by terminating respondent mother's parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). Respondent mother's rapid relapse into substance abuse when petitioner returned the child to her care, resulting in his endangerment on at least two occasions, supplies evidence that the primary condition of adjudication was not rectified. MCL 712A.19b(3)(c)(i). It is also significant that respondent mother denied the effects of her relapse on the child for a substantial time, and maintained that the home where she left him during the relapse--the residence of a sexual offender who had perpetrated against another of respondent mother's children--was appropriate. Respondent mother's poor judgment and lack of insight suggest that there is no reasonable likelihood that the condition of adjudication would be rectified within a reasonable time considering the age of the child. MCL 712A.19b(3)(c)(i). The same evidence indicating that there is no reasonable

---

<sup>1</sup> Petitioner provided respondent father with a treatment plan in September 2005 after establishing his paternity of the child.

likelihood that the conditions of adjudication concerning respondent mother will be rectified within a reasonable time, MCL 712A.19b(3)(c)(i), equally indicates that there is no reasonable likelihood that respondent mother will be able to provide proper care and custody for the minor child within a reasonable time considering his age, MCL 712A.19b(3)(g), and that there is a reasonable likelihood that the child would be harmed if returned to her care. MCL 712A.19b(3)(j).

Termination of respondent father's parental rights pursuant to MCL 712A.19b(3)(g) and (j) was not clearly erroneous. Respondent father failed to provide proper care and custody for Iszel when he failed to report that respondent mother had been drinking after petitioner returned Iszel to her care. MCL 712A.19b(3)(g). Shortly after petitioner returned Iszel to the care of respondent mother, both respondents executed an aftercare agreement in which respondent father agreed that he would not use alcohol or illegal drugs while living in the home of respondent mother. Yet respondent father continued to drink while living with respondent mother. Even after respondent mother's relapse in June 2006, respondent father continued to drink alcohol while residing with her, as demonstrated by his positive screen in August 2006 and by his own admission that he continued to drink until approximately December 2006. Indeed, the aftercare plan required respondent father to leave the home if he tested positive for alcohol, but he did not do so.

The record reflects that respondent father demonstrated a serious lack of conviction and commitment by failing to comply with his own aftercare agreement or with the conditions necessary for respondent mother's plan while continuing to live with her. His lack of commitment, his failure to protect Iszel during the child's brief placement with respondent mother, and his consistent representations that he did not wish to pursue primary custody of the child adequately support the trial court's conclusion that respondent father would not be able to provide proper care and custody for the minor child within a reasonable time considering the age of the child. MCL 712A.19b(3)(g). Respondent father's failure to participate in intensive outpatient substance abuse treatment after it was added to his treatment plan provided additional support for this conclusion. *In re JK*, 468 Mich 202, 214, n 20; 661 NW2d 216 (2003) (a parent's failure to comply with a treatment plan may supply evidence concerning his ability to provide proper care and custody for the child). The same evidence indicating that there was no reasonable likelihood that respondent father would be able to provide proper care and custody for the child within a reasonable time considering the age of the child, MCL 712A.19b(3)(g), equally indicates that there is a reasonable likelihood that the child would be harmed if returned to his care, MCL 712A.19b(3)(j), and the trial court did not clearly err by terminating his parental rights under this statutory subsection.

The trial court did not clearly err by finding at least one statutory ground for the termination of parental rights was established by clear and convincing evidence with respect to each respondent.<sup>2</sup> MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

---

<sup>2</sup> While termination of respondent father's parental rights pursuant to MCL 712A.19b(3)(g) and (j) was not clearly erroneous, our review of the record reveals that the termination of respondent father's parental rights under MCL 712A.19b(3)(c)(i) and (ii) was not appropriate. But this error  
(continued...)

Finally, the trial court did not clearly err by finding that termination of respondents' parental rights was not clearly contrary to the best interests of the child. MCL 712A.19b(5). Petitioner removed the child from respondent mother at birth and he lived with respondents for only a brief interval before petitioner again removed Iszel. Respondent mother's inability to maintain sobriety during the brief time she cared for Iszel not only placed him at immediate risk, but caused disruption and instability in his life. The foster care worker testified that Iszel exhibited aggression, night terrors, and language regression after the June 2006 removal. Given respondent mother's lengthy history of drug addiction and relapse, and her relapse with potentially disastrous consequences during this case, we cannot conclude that the trial court made a mistake by finding that termination was not contrary to the best interests of the child. *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000).

Respondent father, despite a loving bond with the child, has failed to carry through with the actions necessary for his welfare, in particular by continuing to use alcohol while residing with respondent mother. This conduct reflects either a lack of desire or commitment, also evidenced in respondent father's consistent indications that he did not wish to pursue primary custody of Iszel. Under these circumstances, we are again unable to conclude that the trial court made a mistake by finding that termination of respondent father's parental rights was not clearly contrary to the best interests of the child. *In re Terry, supra* at 22.

Affirmed.

/s/ Pat M. Donofrio  
/s/ Joel P. Hoekstra  
/s/ Jane E. Markey

---

(...continued)

is not determinative because only one statutory ground for termination is required.